

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DANE N. ) APPEAL NO. 07-A-2418  
KINGSTON from the decision of the Board of ) FINAL DECISION  
Equalization of Canyon County for tax year 2007. ) AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came for hearing on October 25, 2007, in Caldwell, Idaho, before Hearing Officer Travis Vanlith. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Appellant Dane Kingston appeared. Residential Appraiser Supervisor Barbara Wade and Residential Appraiser Don Towery appeared for Respondent Canyon County. This appeal is taken from a decision of the Canyon County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. (Alt Pin) 04N02W191825.

**The issue on appeal is the market value of a residential property.**

**The decision of the Canyon County Board of Equalization is affirmed.**

**FINDINGS OF FACT**

The assessed land value is \$92,800, and the improvements' value is \$403,800, totaling \$496,600. Appellant requests the land value be reduced to \$60,000, and the improvements' value be reduced to \$323,000, totaling \$383,000.

The subject property is a 1.14 acre parcel with a two-story single-family residence built in 2004. Subject residence includes 3,991 square feet of finished above-grade space and a 1,692 square foot unfinished basement. Subject is located on a bluff in a rural area east of Caldwell, Idaho. Respondent appraised the lot value at \$92,800, or \$81,404 per acre. Respondent appraised the improvement's value at \$403,800, or \$101 per square foot. Subject's assessed value increased in 2007, as depicted in the following table:

<b>Assessment Tax Year</b>	<b>Total Lot Value</b>	<b>Total Residence Value</b>	<b>Total Value</b>
<b>2006</b>	\$34,200 (\$30,000 per acre)	\$285,600 (\$72 per sq. ft.)	\$319,800 (\$80 per sq. ft.)
<b>2007</b>	\$92,800 (\$81,404 per acre)	\$403,800 (\$101 per sq. ft.)	\$496,600 (\$124 per sq. ft.)
<b>% Increase</b>	<b>171%</b>	<b>41%</b>	<b>55%</b>

Appellant contended bare land in the subject area has sold for \$50,000 per acre and comparable homes within eight miles of subject have sold for \$80 to \$82 per square foot.

Appellant contested Respondent's above-grade exterior measurement of subject residence, which Respondent stated is 3,991 square feet. Appellant provided an invoice from Hansen Drafting and Design dated October 29, 2002 which stated 3,715 square feet. Respondent's measurement is 276 square feet larger than Appellant's invoice, a difference of 7%.

Appellant provided data from ten (10) residential property sales for comparison to subject, which Appellant testified was supplied by his real estate agent. Appellant's sales data did not state the year built, basement square footage, or any other non-residence improvements of each property. Four (4) sales occurred during 2005 and six (6) during 2006. Of the 2006 sales, one (1) property is fifteen (15) miles from subject. Two (2) of the remaining five (5) properties had the same address, but showed different sales data. The remaining three (3) properties were within eleven (11) miles of subject and sold for \$393,000, \$486,000, and \$649,900. These lots were all larger than the subject lot by an average of 36%. The residences were all larger than the subject residence by an average of 8%. Although these properties were larger than subject, they generally resembled subject. The average sale price was \$506,633 (\$119 per square foot) and the median sale price was \$486,000, or \$109 per

square foot. For comparison, subject's total assessed value was \$496,600, or \$124 per square foot. Appellant testified \$100 per square foot was an appropriate measure of subject's above-grade value.

### Appellant's Best Comparable Sales

Property	Distance (Mi)	Lower (Sq. Ft.)	Above (Sq. Ft.)	Acres	Year Built	Date Valued	Value	Total Per Sq. Ft.
2	8.2	NA	4,400	1.60	NA	May-06	\$393,000	\$89
4	11.0	NA	4,450	1.57	NA	Aug-06	\$486,000	\$109
10	5.4	NA	4,090	1.48	NA	May-06	\$649,900	\$159
<b>Average</b>	<b>8.2</b>	<b>NA</b>	<b>4,313</b>	<b>1.55</b>	<b>NA</b>	<b>Jun-06</b>	<b>\$506,633</b>	<b>\$119</b>
<b>Subject</b>	<b>0.0</b>	<b>1,172</b>	<b>3,991</b>	<b>1.14</b>	<b>2004</b>	<b>Jun-07</b>	<b>\$496,600</b>	<b>\$124</b>

Appellant testified a neighboring gravel pit operates 24 hours per day. Multiple gravel pits were located within one mile of subject. Appellant also testified the land surrounding subject was being developed as entry-level subdivisions.

Appellant provided a sales listing for another residential property, dated October 25, 2007, to establish decreasing market values in the subject area. The Asking Price for this property is \$369,900. This 3,914 square foot residence, which includes a 1,254 square foot finished basement, was built in 1999 and sits on 3.4 acres. The property is located eighteen (18) miles southeast of subject in a rural area near Lake Lowell. Appellant testified this property has been on the market for more than one (1) year.

Respondent provided data from three (3) residential property sales and maintained they were the best sales available for comparison to subject. These sales occurred between March 2006 and July 2006 and were all within six (6) miles of subject. The residences were

built between 2004 and 2006 and were significantly smaller than subject (666 to 833 square feet less, or 17% to 21% smaller). Respondent also provided photographs of each property, which show construction quality, landscaping, and acreage similar to subject. One (1) sale property sold for \$522,900 and includes a large detached outbuilding, which Respondent valued at \$31,000. To account for the outbuilding, Respondent adjusted the sale price accordingly to \$491,900, or \$156 per square foot. The two (2) remaining properties sold for \$457,350 and \$480,000. Respondent's comparable sales were similar to subject in terms of age, lot size, and location. The average sale price of these properties was \$476,417, or \$148 per square foot. For comparison, subject's total assessed value was \$496,600, or \$124 per square foot.

#### **Respondent's Comparable Sales**

<b>Property</b>	<b>Distance (Mi)</b>	<b>Lower (Sq. Ft.)</b>	<b>Above (Sq. Ft.)</b>	<b>Acre s</b>	<b>Year Built</b>	<b>Date Valued</b>	<b>Value</b>	<b>Total Per Sq. Ft.</b>
<b>1</b>	3.1	0	3,325	1.13	2004	Mar-06	\$480,000	\$144
<b>2</b>	4.9	0	3,178	1.45	2005	Mar-06	\$457,350	\$144
<b>3</b>	5.6	0	3,158	1.07	2006	Jul-06	\$491,900	\$156
<b>Average</b>	<b>4.5</b>	<b>0</b>	<b>3,220</b>	<b>1.22</b>	<b>2005</b>	<b>Apr-06</b>	<b>\$476,417</b>	<b>\$148</b>
<b>Subject</b>	<b>0.0</b>	<b>1,172</b>	<b>3,991</b>	<b>1.14</b>	<b>2004</b>	<b>Jun-07</b>	<b>\$496,600</b>	<b>\$124</b>

Respondent testified it measured subject in 2004 and assumed the exterior above-grade measurement of 3,391 square feet was accurate. Respondent offered to re-measure and re-evaluate subject at Appellant's discretion.

Respondent testified subject's increased assessed value was due to increased land values. Respondent stated "first acre" values in the area were approximately \$90,000 per acre. Respondent acknowledged property values in the area decreased in 2007, but stated

the 2007 valuation was appropriately based on 2006 sales. Respondent acknowledged subject is not in a subdivision and stated its valuation of the subject parcel was lower than neighboring subdivided land.

Respondent testified it knew neighboring gravel pits “have been there quite a while” and Canyon County recently re-zoned one of the gravel pits to operate 24 hours per day. When Appellant asked, “We're you aware of these gravel pits, or were they considered in [the appraisal]?” Respondent replied:

“They're not considered in the appraisal. No. I know they're down on the other side of the road. That's quite a ways off the road. As far as the gravel trucks, I don't know. I know there are gravel pits down there.”

None of Appellant's or Respondent's comparable sales were located near an active gravel pit. Appellant did not challenge Respondent's comparable sales.

Appellant maintained the assessment is unfair and a 55% increase was “out of line” with current market conditions. Appellant testified \$100 per square foot was an appropriate measure of subject's above-grade value and comparable finished basements were typically priced between \$20,000 and \$30,000 in new construction.

Respondent testified it valued subject's unfinished basement at \$29,000. Respondent maintained it was satisfied with its comparable sales and acknowledged using smaller properties in the “same price range” as subject.

### **CONCLUSIONS OF LAW**

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following Conclusions of

Law:

Idaho Code provides that "All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation." I.C. § 63-203.

Idaho Code further directs that "rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes of all property." I.C. § 63-208(1).

For taxation purposes, Idaho requires that property be valued at market value. I.C. § 63-201(10). The Idaho Administrative Code defines market value and accepted appraisal procedures:

**01. Market Value Definition.** Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

**03. Appraisal Procedures.** Market value for assessment purposes shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission.

IDAPA 35.01.03.217.01, .03, see also I.C. § 63-201(10) (emphasis added).

Respondent offered three (3) residential property sales to establish subject's assessed value and maintained these were the best sales available for comparison to subject.

Appellant did not challenge Respondent's comparable sales. Although the residences were 17% to 21% smaller than subject, these properties resembled subject in terms of age, size, location, and construction quality. These properties sold for \$457,350, \$480,000, and

\$491,900, with an average sale price of \$476,417, or \$148 per square foot. Subject's total assessed value was \$496,600, or \$124 per square foot. The Board finds these sales adequately resemble subject and were indicative of subject's market value.

Appellant offered ten (10) residential property sales to contest subject's assessed value. Appellant's sales data did not state the year built, basement square footage, or other non-residence improvements of each property. Only six (6) of the sales occurred during 2006. One (1) of the 2006 sales (Appellant's Comparable Sale 6) was located fifteen miles from subject. The Board will disregard this sale based on its inordinate distance from subject.

Appellant's remaining five (5) sales from 2006 were within eleven (11) miles of subject. Two (2) of these sales (Appellant's Comparable Sales 7 and 8) had the same address, but different sales data. The Board is unable to determine if these listings are separate properties and will disregard both.

Appellant's three (3) remaining 2006 sales (Appellant's Comparable Sales 2, 4, and 10) varied widely in residential square footage, acreage, and sale price. These properties sold for \$393,900, \$486,000, and \$649,900, with an average sale price of \$509,633 (\$119 per square foot). Of these "best" sales, Comparable Sale 10 is most similar to subject in terms of size, acreage, location, and age. This property sold for \$649,900, or \$158.90 per square foot. Subject's total assessed value was \$496,600, or \$124 per square foot. The Board finds Appellant's three (3) "best" sales adequately resemble subject and were indicative of subject's market value.

Combining Respondent's three (3) comparable sales with Appellant's three (3) "best" sales reveals an average sale price of \$493,025 and an average price per square foot of \$133.58. Subject's total assessed value was \$496,600, or \$124 per square foot. Thus, the

Board finds subject's appraised value is within the range of Respondent's comparable sales.

None of the comparable sales offered by either party were located near an active gravel pit. Respondent admitted it did not consider the neighboring gravel pits in its appraisal of subject, even though it knew Canyon County recently re-zoned one of the pits for 24-hour operation. Although the presence of an active gravel pit could negatively impact subject's market value, neither party presented evidence of such an impact. Without conclusive evidence of a detrimental impact (e.g., economic, nuisance, health, safety, etc.) the Board has no basis to modify subject's assessed value.

Appellant contested Respondent's above-grade exterior measurement of the subject residence. Respondent stated the subject residence was 3,991 square feet in size. Appellant provided an invoice for house plans, which states 3,715 square feet in size. Appellant's invoice is 276 square feet less than Respondent's measurement. Although the Board finds this invoice is insufficient to refute Respondent's measurement, the difference is substantial. At \$124 per square foot, this discrepancy could reduce subject's assessed value by \$34,224. At hearing, Respondent offered to re-measure and re-appraise subject at Appellant's discretion. The Board supports this approach.

A property valuation for taxation purposes, as determined by an assessor, is presumed correct and the taxpayer has the burden of proof to show, by a preponderance of the evidence, an entitlement to relief. Merris v. Ada County, 100 Idaho 59, 64, 593 P.2d 394, 399 (1979).

Factual determinations, supported by competent and substantial evidence, are not erroneous despite conflicting evidence. Wulff v. Sun Valley Co., 127 Idaho 71, 73-74, 896 P.2d 979, 981-82 (1995). Although differences between the subject and sale properties exist,



a comparison of 2006 sale prices to subject's assessed value demonstrates Respondent's assessment of subject was reasonable.

The court will grant relief where the valuation fixed by the assessor is manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous resulting in discrimination against the taxpayer. Roeder Holdings, L.L.C. v. Bd. of Equalization of Ada County, 136 Idaho 809, 41 P.3d 237 (2001); Merris. Appellant claimed subject's assessment was inaccurate, but failed to demonstrate specific errors. Comparable sales provided by both parties reasonably support subject's assessed value. Therefore, we find the assessment was not arbitrary and Appellant has not demonstrated error by a preponderance of the evidence.

The decision of the Canyon County Board of Equalization is affirmed.

#### **FINAL ORDER**

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Canyon County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED January 30, 2008